

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

JASPER E. SANDERS,	)	
	)	
Plaintiff,	)	Case No. 1:11-cv-322-SJM-SPB
	)	
v.	)	
	)	
BEN EVANS, <i>et al.</i> ,	)	
	)	
Defendants.	)	

**MEMORANDUM ORDER**

Plaintiff's complaint in this civil rights action was received by the Clerk of Court on December 28, 2011 and was referred to United States Magistrate Judge Susan Paradise Baxter for report and recommendation in accordance with the Magistrates Act, 28 U.S.C. § 636(b)(1), and Rules 72.1.3 and 72.1.4 of the Local Rules for Magistrates.

The Magistrate Judge's Report and Recommendation, filed on January 27, 2012 [9], recommends that the instant case be dismissed as legally frivolous in accordance with 28 U.S.C. § 1915(e) inasmuch as the Plaintiff has not alleged any claim over which this Court can exercise subject matter jurisdiction. The Plaintiff filed objections to the Report and Recommendation [11] on February 13, 2012.

Plaintiffs' objections make clear that his claims are premised on injuries he allegedly sustained at the hands of Defendant Evans while Evans was acting in his capacity as a private "security guard" for a local bar. Because the parties are non-diverse, there does not appear to be any basis upon which this Court can exercise subject matter jurisdiction over Plaintiff's claims. Although a district court ordinarily should not dismiss a *pro se* complaint without granting leave to amend, *see Grayson v. Mayview State Hosp.*, 293 F.3d 103, 110–111 (3d Cir.2002), such leave need not be given when further amendment would fail to cure the deficiencies in the pleading. *See*

*Fleming v. Cape May County*, No. 12-1260, 2012WL1130597 at \*1 (3d Cir. April 5, 2012) (affirming dismissal of complaint pursuant to §1915(e)(2) where further amendment would be futile). Accordingly, after de novo review of the complaint and documents in the case, together with the Report and Recommendation and Plaintiff's objections thereto, the following order is entered:

AND NOW, this 11<sup>th</sup> Day of April, 2012;

IT IS ORDERED that, pursuant to 28 U.S.C. § 1915(e)(2)(B)(i), the within action shall be, and hereby is, DISMISSED with prejudice inasmuch as this Court lacks subject matter jurisdiction over Plaintiff's claims and the jurisdictional defect cannot be cured by way of further amendment.

The Report and Recommendation of Magistrate Judge Baxter, filed on January 27, 2012 [9], is adopted as the opinion of this Court.

s/ Sean J. McLaughlin

SEAN J. McLAUGHLIN  
United States District Judge

cm: All parties of record

U.S. Magistrate Judge Susan Paradise Baxter